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28 January 1986

File 96A

MEMORANDUM FOR: DC/ALD/OGC
C/PE/PTG/OS
C/SECOM

FROM:

Legislation Division
Office of Legislative Liaison

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SUBJECT: Request for Comments - 2nd Justice Draft Views
Letter on H.R. 1524 & S. 1815 - Polygraph
Legislation

1. Attached for your review and comment please find a copy of a draft Department of Justice views letter on H.R. 1524 and S. 1815, legislation to ban the private use of polygraphs. This is Department of Justice's second draft of a views letter on this legislation. The first draft, you will recall, had taken no position on the merits of the legislation but had merely sought an exemption for employees of government contractors. This draft had been opposed by the Agency, and other agencies, because of the wording of the exemption.

2. As you can see, this second Department of Justice draft reverses the position of the first draft and opposes both bills on their merits on the grounds that they are unneeded and in contravention of the principles of federalism.

3. The purpose of this second draft is, of course, to "derail" the legislation, especially H.R. 1524 which currently awaits floor action in the House. Were the draft actually to be sent, the Office of Management and Budget (OMB) probably would not allow the transmission of other views letters until the effect of the Justice letter was gauged. This OMB prohibition would extend to the views letter of the Director of Central Intelligence (DCI) seeking an exemption to S. 1815 for employees of contractors of Intelligence Community agencies which is currently under review at OMB. Of course, if the Justice letter achieves its intended purpose, there would be no need for the DCI's letter.

4. From the Agency's point of view, there would not seem to be an objection to the Justice letter nor to the strategy of allowing that letter to go forward initially and its effect to be gauged before pressuring OMB to clear the DCI's letter. We would, however, appreciate receiving your comments on both the attached Department of Justice letter and the appropriate course of action to take with respect to our own views letter no later than January 31, 1986.

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Attachment:
as stated

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